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09/760,189	01/12/2001	Charles R. Sperry	D-20086-01	2431
28236	7590	01/04/2005	EXAMINER	
CRYOVAC, INC. SEALED AIR CORP. P.O. BOX 464 DUNCAN, SC 29334			TRUONG, THANH K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/760,189  
Filing Date: January 12, 2001  
Appellant(s): SPERRY ET AL.

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Thomas C. Lagaly  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 9, 2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) *Prior Art of Record***

5,255,847	Sperry et al.	10-1993
5,996,848	Sperry et al.	12-1999

**(9) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sperry et al. (5,996,848) (hereinafter Sperry '848).

Sperry '848 discloses a fluid dispenser comprising:

a housing 148 defining an internal chamber 188, and the housing comprising: an inlet 172 or 174 for receiving a fluid product into the housing and being in fluid communication with the internal chamber, and a discharge port 153 through which fluid product may exit the housing, and the discharge port being in fluid communication with the internal chamber; and

a valving rod 218, 268 disposed in the housing and being movable within the internal chamber between an open position, in which fluid product may flow through the internal chamber and exit the housing via the discharge port, and a closed position, in which fluid product is substantially prevented from flowing through the internal chamber (figures 28 & 29), the valving rod comprising:

a central bore 230, at least one inlet 256 for receiving a cleaning solvent, the inlet being in fluid communication with the bore, and one or more outlet ports 234, 236 in fluid communication with the bore, the outlet ports being capable of directing cleaning solvent radially from the bore and against the interior surface bounding the internal chamber to facilitate the removal of at least a portion of any fluid product or derivatives

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thereof that may be in adherence with the interior surface (figure 28 & column 37, lines 12-15).

Sperry '848 further discloses the housing has a longitudinal axis; the bore of the valving rod is substantially aligned with the longitudinal axis; and the valving rod translates between the open and closed positions along the longitudinal axis (figures 25, 27, 28A & 29); & 29); the discharge port has an interior surface that defines part of the internal chamber of the housing; and the valving rod is adapted to direct cleaning solvent against the interior surface of the discharge port when the valving rod is in the closed position (column 35, lines 42-53); the housing further comprises an internal reservoir 200 (and the space between 290 and 220) in which cleaning solvent may be contained, the internal reservoir being in fluid communication with the at least one inlet into the central bore of the valving rod (figure 28); a portion of the valving rod is movable through the internal reservoir (figures 25, 27, 28 & 29); the housing has at least one inlet 166 (figure 9) in fluid communication with the internal reservoir so that cleaning solvent from an external source may be added to the reservoir as needed (column 38, lines 67 & column 39, lines 1-3); the dispenser is adapted to dispense a fluid product selected from polyols, isocyanates, and mixtures of polyols and isocyanates (column 1, lines 32-44); and the cleaning solvent is selected from glycols, ethers, and mixtures of glycols and ethers (column 36, lines 12-16 & lines 26-30).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 11, 13-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry et al. (5,255,847) in view of Sperry et al. (5,996,848).

Sperry '847 discloses a mechanism that conveys a web of film along a predetermined path of travel, the film web comprising two juxtaposed plies of plastic film that define a partially-formed flexible container; one or more devices for sealing the plies of plastic film together thereby enclosing the fluid product therein (figure 1, column 1, lines 6-10 and lines 19-28); and a conduit providing fluid communication between the internal reservoir and the discharge port.

Sperry '847 discloses the claimed invention, except for the fluid dispenser as recited in claims 10-15 and 17-20.

As discussed above in paragraph 2 of this office action, Sperry '848 discloses the fluid dispenser as recited in claims 10, 11, 13-15 and 17-20. The Sperry '848 dispenser provides a system that puts out a precise and consistent amount of high quality foam, preventing the obstruction of any chemical to the inlet port, and avoiding any degrading foam precursor build up in general (column 6, lines 51-57).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Sperry '847 dispenser system by incorporating the improved dispenser system as taught by Sperry '848 for a higher output, reliable and requires less maintenance system.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry et al. (5,255,847) in view of Sperry et al. (5,996,848).

As discussed above in paragraph 6 of this office action, the modified Sperry '847 and Sperry '848 discloses the claimed invention, except for not expressly discloses the mechanism to apply a pressure ranging from about 2 to about 12 psi to the internal reservoir.

Sperry '848, figure 1 discloses that means 1106 provide mechanism to supply solvent to dispenser, and column 24, lines 12-17 & lines 34-39 discloses that pressure is applying to the internal reservoir. Furthermore, the phrase "sufficient pressure" recited in column 24, line 15, implies that any ranges of pressure, including a pressure ranging from about 2 to 12 psi, is inherently taught by Sperry '848. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to apply a pressure ranging from about 2 to 12 psi to the internal reservoir to insure a sufficient pressure is applied to the solvent reservoir so that the cleaning solvent can be delivered through out the dispenser system.

**(10) Response to Argument**

The appellant's argument regarding the rejection of claims 1, 2, 4-11 and 13-19 is that Sperry '848 does not disclose that the outlet port directing the cleaning solvent radially outwards from the bore and against the interior surface of the discharge port when the valving rod is in the closed position. Instead, the outlet ports 234 and 236 are positioned above the internal passageways 176 and 178, and therefore positioned well above the discharge port 153.

As the examiner has pointed out in the previous office action, Sperry '848, column 37, lines 11-15 recited "Solvent 310 ... where upon it flows radially out through ports 234 and 236 ...". Furthermore, the examiner construes that the "interior surface of said discharge port", as recited in claims 1 and 10, includes the entire surface from above the outlet ports 234 and 236 down to the discharge port 153 (see figure 28). The appellant's claims 1 and 10 do not specify any limitations as far as the length of the interior surface within the vicinity of the outlet port, and for the appellant's argument that the Sperry '848 apparatus is far less effective is irrelevant, because it does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

The appellant's argument regarding the rejection of claim 20 is that neither Sperry '847 nor Sperry '848 teaches or suggests the dispenser recited in claim 20.

Figures 28 and 29 of Sperry '848 show a dispenser that comprises the solvent 310 flows from internal reservoir 312, 230, 200 (figure 8 shows cavity 200) and 240 (figure 29), and the external conduits of those internal reservoir including 256, and the conduits that connecting ports 234 and 236 to those internal reservoirs.

Sperry '847 clearly discloses that the conduits providing fluid communication between the internal reservoir and the discharge port, and the conduits are positioned externally of the internal reservoir of the dispenser as recited in claim 20.

For the above reasons, it is believed that the rejections should be sustained.

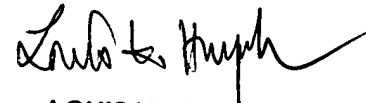


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Respectfully submitted,

Thanh K Truong  
December 14, 2004

  
LOUIS K. HUYNH  
PRIMARY EXAMINER

Conferees:  
John Sipes.

Stephen Gerrity.

CRYOVAC, INC.  
SEALED AIR CORP  
P.O. BOX 464  
DUNCAN, SC 29334